

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-155-C - ORDER NO. 2000-710
AUGUST 29, 2000

IN RE: Application of Erbia Network, Inc. for)	ORDER
Authority to Operate as a Reseller of)	GRANTING
Interexchange Telecommunications Services)	CERTIFICATE
within the State of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Erbia Network, Incorporated ("Erbia Network" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold interexchange telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Erbia Network to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Erbia Network's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on December 1, 1999, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Philip Bradley, Chairman, presided. Erbia Network was not represented by counsel. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Mr. Arne Dunhem, Chairman and Chief Executive Officer of Erbia Network, appeared and testified in support of the Application. Mr. Dunhem is also the founder of the Company. Mr. Dunhem's job as Chief Executive Officer is to ensure, from a strategic point of view, that the Company is developed in a way which follows the business plan of the Company; his main job duties include long term goals of the Company. Erbia Network was founded in November 1998. Mr. Dunhem has approximately twenty-five years of telecommunications experience; he founded several telephone companies in Europe as well as the United States. According to Mr. Dunhem's testimony, some of the companies he founded in Europe have been extremely successful. The intent of Erbia Network is to provide long distance services – international and domestic—and in the future the Company plans to provide local telecommunications services. Erbia Network's long distance services include 1+ services, toll-free 800 inbound services, and travel cards. The Company does not plan to offer operator services in South Carolina. Erbia Network also provides dial-up internet services. Initially, upon receiving certification from the Commission, Erbia Network does not plan to offer prepaid calling cards in South Carolina.

Erbia, Inc. is the parent company of Erbia Network. The Company's logo is Erbia – Bridge to the Future, representing the concept of new features and new technology being offered to the Company's customers. As of the hearing date, Erbia did not have any facilities in South Carolina; the Company does however have facilities in Washington, D.C. for internet services. The Company does not have facilities in any other states to provide long distance or local

telephone services. Mr. Dunhem did testify however that Erbia plans to resell its services under other carriers' services. The Company is currently reselling Qwest Communications and MCI WorldCom services for domestic and international services; they previously resold services of Telehub Network Services. Telehub Network Services ran into difficulties financially and is currently in bankruptcy. Erbia Network has outsourced its billing services to a company in California called TeleSwitch, Inc. of Stockton, California. Erbia Network's name and telephone number appears on the customers' bills. The Company's customer service department is located in Brookneal, Virginia and it handles customer inquiries regarding Erbia Network's services. The Company has an escalation process; first, the customer contacts the customer service representative. If the customer service representative can not answer the inquiry, then the supervisor will handle the question. If the supervisor can not handle the inquiry, then the manager will be responsible for handling the inquiry. The Company employs personnel who specialize in handling critical, major issues. Mr. Dunhem handles inquiries himself if other persons employed with the Company are unable to resolve the issue. The customer service department is open from 8:00 a.m. until 10:00 p.m.; the customer service department is staffed until midnight. After midnight, a recording device takes messages of customers who have questions and the messages are responded to the following morning by Erbia Network. The name of the customer service department is Brookneal Customer Care.

In addition to Mr. Dunhem as Chairman and Chief Executive Officer, Mr. Richard Gibbs is the Chief Operating Officer and President of Erbia Network. Mr. Gibbs has more than thirty years experience in the telecommunications industry; he has been employed with AT&T, Bell Atlantic, and Sprint. Mr. Gibbs' responsibility is to move the Company forward. The Senior Vice President of Marketing and Sales is Jack Ryan. Mr. Ryan has approximately thirty-five

years experience in telecommunications marketing and sales. Collectively, the senior management team has over one hundred years experience in the telecommunications' field. Mr. Dunhem stated that the Company believes it has the managerial experience to provide telecommunications services.

Mr. Dunhem testified Erbia Network has not yet started marketing its services in South Carolina. The Company's services are marketed and sold by agents who are located in a number of different states. The Company's agents are independent agents who are not compensated by Erbia Network; however, the agents do receive commissions from Erbia Network.

The Company began offering its services May 1, 1999. Since May 1, 1999, Erbia Network has provided services in a number of states and the revenues have been close to 1.5 million dollars since May 1, 1999, according to Mr. Dunhem. Erbia Network is relying on its parent company Erbia, Inc. for financial support. Erbia, Inc. is a holding company for different companies such as Erbia Support Services and Erbia Network.

Erbia Network is certified to provide its services in approximately forty-five states and the Company is providing its services in approximately thirty-five states such as California, Texas, Florida, New York, and Virginia. Mr. Dunhem testified he believed Erbia Network is operating in good standing in the states where the Company is certified to provide its services. Qwest Communications is the underlying carrier in the states where Erbia Network is currently providing services.

Mr. Dunhem testified that to his knowledge, Erbia Network has never had authority denied in any state where it has applied for authority. Additionally, based on Mr. Dunhem's knowledge, Erbia Network has never had authority revoked in any state where it has been granted authority. Furthermore, Erbia Network has received complaints from customers whose

services were disrupted after Telehub Network Services terminated its services to Erbia Network's customers with no prior warning. Mr. Dunhem testified that after Erbia Network's customers' services were terminated, Erbia Network made contractual arrangements with Qwest Communications within a weeks time; these contractual arrangements restored telecommunications services to Erbia Network's customers. When Erbia Network's customers were disconnected due to Telehub Network Services' terminating the Company's customers' services, the Company's customer service center informed its customers to use 10-10-321 thereby dialing around the interruption. The customer service center broadcasted this message directly through telephone calls, e-mails, and telefaxes informing customers to use the dial-around 10-10-321. Finally, according to Mr. Dunhem, to his best knowledge the complaints regarding Telehub Network Services' termination of telephone services have been resolved.

The regulatory contact person for the Company is Joel Dichter, Senior Vice President of Government and Business Affairs at Erbia. The Company has provided long distance services in South Carolina. Mr. Dunhem stated that the Company's providing telecommunications services in South Carolina was unintentional. The Company also received revenue from customers in South Carolina in the amount of \$1,919.13. Mr. Dunhem stated that the Company has informed all agents to cease and desist operations in South Carolina. He also stated Erbia Network has informed its customer service department to accept no service orders from customers in South Carolina.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Erbia Network is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Erbia Network operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Erbia Network has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Erbia Network to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.
2. The Commission adopts a rate design for Erbia Network for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Erbia Network shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Erbia Network shall file its

proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, Erbia Network shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Erbia Network is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Erbia Network shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Erbia Network changes underlying carriers, it shall notify the Commission in writing.

8. Erbia Network shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper

form for these reports, which are entitled “Annual Information on South Carolina Operations For Interexchange Companies and AOS”, can be found at the Commission’s web site at www.psc.state.sc.us/forms. Be advised that the Commission’s annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Erbia Network shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be located at the Commission’s web site at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, Erbia Network shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. The testimony reveals Erbia Network has received revenue from the completion of intrastate calls in South Carolina prior to receiving certification. The Company shall return all

intrastate revenue received from customers in South Carolina prior to receiving certification.

Additionally, the Company shall write off all outstanding invoices obtained as a result of intrastate traffic in South Carolina.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director

(SEAL)